

Amendment

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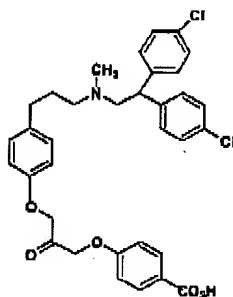
USSN 09/848,697
QA211NP**REMARKS/ARGUMENTS**

Claims 1-4, 7, and 9-13 are pending in this application.

In the Office Action dated July 8, 2004, the Examiner rejected Claims 1-4, 9, 12, and 13 under 35 U.S.C. §102(b) as being unpatentable over JP 5-222006. Claim 7 was objected to as being dependent upon a rejected base claim.

Reconsideration and allowance of this application are respectfully requested in view of the above amendments and the remarks that follow.

Pursuant to the Examiner's request for an election of a single disclosed species on July 29, 2003, Applicants elected 3-[4-[3-[N-[2-Bis-(4-chlorophenyl)ethyl]-N-methylamino]propyl]phenoxy]-1-(4-carboxyphenoxy)-2-propanone which is Example 2 on page 51 of the specification.



3-[4-[3-[N-[2-Bis-(4-chlorophenyl)ethyl]-N-methylamino]propyl]phenoxy]-1-(4-carboxyphenoxy)-2-propanone

In the July 8, 2004 Office Action, the Examiner states that "Claim 11 will be allowed to the extent it reads on the elected subject matter. Compounds containing Silicon and heterocyclic subject matter should be deleted." Accordingly, Applicants have amended Claims 1, 2, 3, 7, 11, 12, and 13 to remove silicon and heterocyclic subject matter which reflects the scope of the generic concept of the elected subject matter. Applicants maintain the right to file divisional application(s) on non-elected subject matter.

Rejection of Claims 1-4, 9, 12, and 13 Under 35 U.S.C. §102(b)

The Examiner has rejected Claims 1-4, 9, 12, and 13 under 35 U.S.C. §102(b) as being unpatentable over JP 5-222006. JP'006 teaches compounds containing a

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heterocycle. It is Applicants' position that the amendments to Claims 1, 2, 3, 9, 12, and 13, which remove all heterocyclic subject matter, render the rejections moot. Therefore, it is respectfully requested that the rejections to Claims 1-4, 9, 12, and 13 be withdrawn.

Objection of Claim 7 and Allowance of Claim 11


Claim 7 has been objected to as being dependent upon a rejected base claim, but would be allowable to the extent that it reads on the elected subject matter, if rewritten in independent form including all of limitations of the base claim. The Examiner further states "Note applicants should delete Silicon containing subject matter." Applicants have amended Claim 7 to remove all silicon containing subject matter and respectfully request that the objection be withdrawn.

Claim 11 is allowed to the extent it reads on the elected subject matter. The Examiner further states "Compounds containing Silicon and heterocyclic subject matter should be deleted." Applicants have amended Claim 11 to remove all silicon and heterocyclic subject matter and respectfully request that the claim be allowed.

While Applicants submit that the claims are in condition for allowance and respectfully request the Examiner's reconsideration, a NOTICE OF APPEAL has nevertheless been filed. The Commissioner is hereby authorized to charge any additional fees under 37 CFR §1.17 which may be required, or credit any overpayment, to Account No. 19-3880 in the name of Bristol-Myers Squibb Company.

Respectfully submitted,

Bristol-Myers Squibb Company
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